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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/082,479	02/22/2002	Paul Giampavolo	P/1759-85	4324	
2352 7	590 03/09/2005	EXAMINER			
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NEW YORK, NY 100368403			ART UNIT	PAPER NUMBER	
			3632		

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Applicatio	n No.	Applicant(s)			
Office Action Summary					N/		
		10/082,47	y 	GIAMPAVOLO, PAUL			
	Omce Action Summary	Examiner		Art Unit			
	The MAIL INC DATE of this agreement	Korie H. Cl	·	3632			
Period fo	The MAILING DATE of this community or Reply	ication appears on the	cover sneet with the t	orrespondence address			
THE - Exte after - If the - If NC - Failt Any	ORTENED STATUTORY PERIOD FOMALLING DATE OF THIS COMMUNI nsions of time may be available under the provisions SIX (6) MONTHS from the mailing date of this comme period for reply specified above is less than thirty (30 period for reply is specified above, the maximum stature to reply within the set or extended period for reply reply received by the Office later than three months a ed patent term adjustment. See 37 CFR 1.704(b).	CATION. of 37 CFR 1.136(a). In no eve nunication. 0) days, a reply within the statu attutory period will apply and wil will, by statute, cause the appli	nt, however, may a reply be tir tory minimum of thirty (30) day I expire SIX (6) MONTHS from cation to become ABANDONE	nely filed /s will be considered timely. In the mailing date of this communicat (D) (35 U.S.C. § 133).	tion.		
Status							
1)⊠	Responsive to communication(s) file	ed on <i>19 January 2005</i>	5.				
,	•	2b)⊠ This action is no					
3)□	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposit	ion of Claims						
5)□ 6)⊠ 7)□	Claim(s) <u>1-5,7-9,11,13-16,18-20,22,</u> 4a) Of the above claim(s) is/ar Claim(s) is/are allowed. Claim(s) <u>1-5,7-9,11,13-16, 18-20,22</u> Claim(s) is/are objected to. Claim(s) are subject to restrict	re withdrawn from cor ,24,26-30 is/are reject	nsideration.	ion.			
Applicat	ion Papers						
10)	The specification is objected to by the The drawing(s) filed on is/are: Applicant may not request that any object Replacement drawing sheet(s) including The oath or declaration is objected to	a) accepted or b) ction to the drawing(s) but the correction is require	e held in abeyance. Seed if the drawing(s) is ob	e 37 CFR 1.85(a). ojected to. See 37 CFR 1.121	• •		
Priority (under 35 U.S.C. § 119						
12)□ a)	Acknowledgment is made of a claim All b) Some * c) None of: 1. Certified copies of the priority 2. Certified copies of the priority 3. Copies of the certified copies application from the Internationsee the attached detailed Office actions.	documents have been documents have been of the priority docume nal Bureau (PCT Rule	n received. n received in Applicat nts have been receiv e 17.2(a)).	ion No ed in this National Stage			
2)	ot(s) ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (P mation Disclosure Statement(s) (PTO-1449 or er No(s)/Mail Date		4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:				

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DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 1-5,7-9,11,13-16,18-20,22,24 and 26-30 are rejected under 35

U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant's recitation of the hook opening configured to have a dimension sufficiently near a diameter of a predetermined garment hanging rod throughout all independent claims are indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

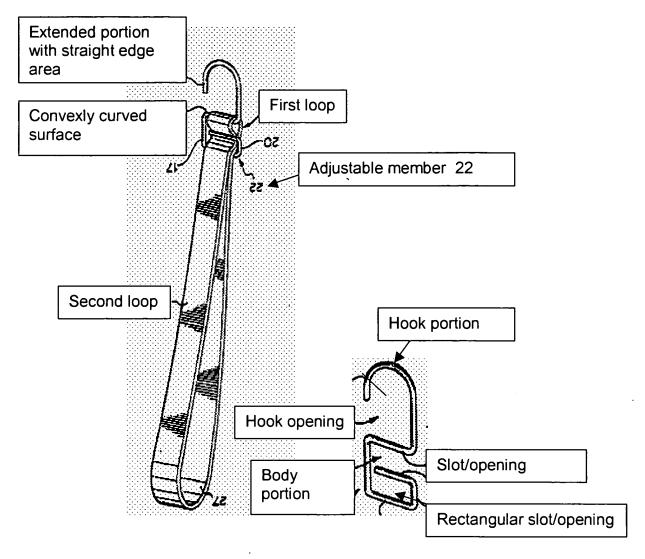
A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 8, 18-20, 22, and 26-28 stand rejected under 35 U.S.C. 102(b) as being anticipated by Bruhm (US patent no. 5,325,568). Bruhm discloses all the claimed features of applicant's invention (see illustration below).

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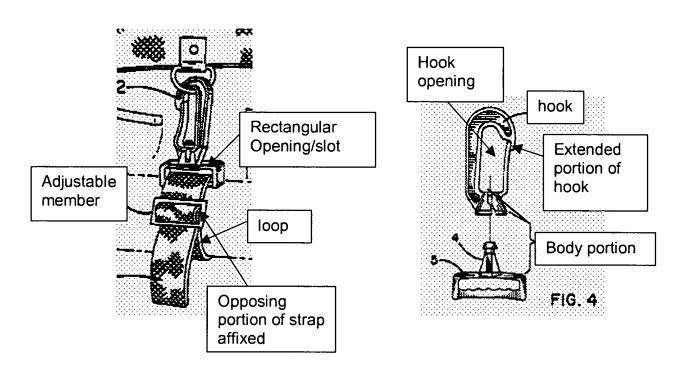
Again applicant's intended usage "configured... to be carried directly on a garment hanging rod" has not been accorded patentable weight for the reason that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, Bruhm's

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hook portion is capable of receiving predetermined size rod for hanging garments and the hook opening having a dimension capable of receiving a diameter of a rod near the dimension of the hook opening to impede passage of the rod through the hook opening.

Claims 1, 7, 8, and 26 stand rejected under 35 U.S.C. 102(b) as being anticipated by Smrt (US patent no. 5,664,712). Smrt discloses all the claimed features of applicant's invention (see illustration below).

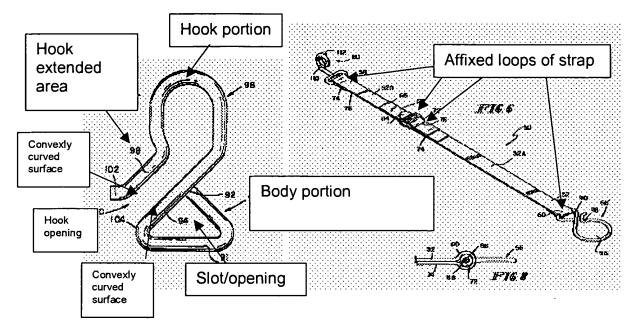


Similarly, Smrt's hook is capable of receiving a diameter of a rod near the dimension of the hook opening to impede passage of the rod through the hook opening.

Claims 1, 5, 7, 9, 11, 15, 18-20, 22, 24, and 28-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Tinklepaugh et al. (US patent no. 6,422,521). Tinklepaugh discloses all the claimed features of applicant's invention (see illustration below).

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Note the hook is made of circular cross-section and its outer surface is convexly curved.

Regarding applicant's recitation of intended use "configured to have a dimension near a diameter of a predetermined garment hanging rod", for a rod of diameter near dimension of hook opening, or as in claim 29 wherein the long axis of the device is at an angle relative to the rod are not of patentable weight for the reason that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, Tinklebaugh et al's hook portion is capable being supported on a garment rod of a diameter near the dimension of the hook opening such that the hook opening will open wider when engaging the rod and narrower once a rod has passed the hook opening.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9, 11, and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruhm'568 in view of Cardenas (D405,965). Bruhm disclosed all the claimed features of applicant's invention as discussed above except for the tip of the hook extended region as having convex surface. Cardenas demonstrates providing a sleeve at the hook extended region of the hook member wherein the tip of the sleeve is of convexly curved surface. The provision of sleeve at the tip of the hook member for the purpose of preventing marring or injury to the user is conventional and well-known. It would have been obvious to one of ordinary skill in the art to have provided Bruhm's hook extended region with a sleeve of convexly curved tip as taught by Cardenas for protecting the user and the surfaces to when the hook is connected.

Applicant's arguments filed 1/19/2005 have been fully considered but they are not persuasive. As discussed above, applicant's reference to the diameter of a hanger rod is not patentable over the art of record. In the above rejections, the hook members are all capable of supporting on a rod of near diameter to the opening of the hook members. Indeed, all hook members is capable of supporting on a predetermined rod of a near diameter to the opening. Such recitation is indefinite.

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Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining cited art of record further demonstrate hanger having slot of long dimension transversing the long axis of the hanger.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Korie H. Chan Primary Examiner Art Unit 3632

Khc

March 4,2005